

REMARKS/ARGUMENTS

Applicants' remarks are in response to the Official Action mailed August 2, 2004. Applicants initially note with appreciation that the Examiner contends claims 29-34 contain patentable subject matter and are in condition for allowance and that claims 15, 16, 21-23 and 25-28, although objected to as depending from a rejected base claim, also contain patentable subject matter.

In the August 2, 2004 Official Action, claims 14 and 17-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Jonhanson et al., U.S. Patent No. 5,747,707 ("Jonhanson"). The Examiner essentially contends that *Jonhanson* discloses each and every recitation included within the claims against which it is cited. Claim 24 of the present application is also rejected as being obvious over *Jonhanson* in view of Ball, U.S. Patent No. 5,827,112 ("Ball"). The Examiner acknowledges that *Jonhanson* fails to teach a force sensor comprising a piezoelectric sensor, but cites *Ball* as teaching the utilization of a force sensor 54, which comprises a piezoelectric sensor as an element 60. (Col. 4, lns. 14-24.) The Examiner further contends that it would have been obvious to modify the device of *Jonhanson* utilizing the teachings of *Ball* to render claim 24 obvious.

With regard to the rejection of independent claims 14 and 17, Applicants note that *Jonhanson* does not teach "resiliently mounting said measuring surface in said refiner surface" as included in claim 14 or "resilient mounting means for resiliently mounting said at least one measuring member on said refiner surface" as included in claim 17. The Examiner contends that this recitation is taught in FIG. 2 of *Jonhanson*. However, upon review of this reference, there does not appear to be any mention of the measuring surface being resiliently mounted. Specifically, at column 2, lines 59-62, *Jonhanson*

discloses a sensor bar with strain gauges 7 distributed along the plane. When a pressure is applied to the sensor bar 6, the strain gauges 7 calculate the deformation of the bar. Even if one could argue that "deformation" is equivalent to "resiliently," it is nevertheless the bar which is disclosed as being deformable, as opposed to the mounting between the bar and the refiner surface. There is no indication that the sensor bar 6 is resiliently mounted in the refiner surface. Further, as illustrated in FIG. 2, Jonhanson teaches away from resilient mounting of the measuring surface. In FIG. 2, the sensor bar 6, i.e., measuring surface, is firmly attached to the refiner surface.

Applicants therefore request reconsideration and allowance of independent claims 14 and 17 of the present application. Additionally, claims 18-20 depend from claim 17 and therefore include all of the recitations of claim 17 and should also be deemed to be in condition for allowance.

Claim 24 is rejected as being obvious over Jonhanson in view of Ball. Ball is cited for teaching the utilization of a force sensor having a piezoelectric sensor. Claim 24 also includes the recitation directed toward "resiliently mounting," as claim 24 depends from independent claim 17. Even if one could argue that Ball discloses a sensor resiliently mounted to a refiner surface, albeit unsuccessfully, Applicants assert that Ball is not combinable with Johanson with respect to the present application. As mandated by the Manual Of Patent Examining Procedures, when asserting a 103 rejection, "the prior art must be considered in its entirety, i.e., including portions that would lead away from the claimed invention." See M.P.E.P. § 2141.02. As such, Ball discloses a measuring device for measuring a force perpendicular to a surface. More specifically, at column 4, lines 49-54 Ball states that as the pressure increases, the grinding teeth 46 are pushed up into

cavities 44, squeezing the piezoelectric element 60 therein. As the piezoelectric elements are compressed, they put out a signal via an electrical conductor . . ." *Ball* is limited to the measuring device being adapted for measuring direct pressure, i.e., a perpendicular force to a surface. If *Ball* were to be combined with *Jonhanson*, the combination would not be able to measure a force across a surface as required by claim 24. Therefore, Applicants contend that *Ball* and *Jonhanson* cannot be combined.

Applicants have added claims 35 and 36 to the present application. No new matter has been added by these amendments. Claim 35 includes similar recitations already included in claim 16. Claim 16, which depends from claim 14, is objected to, but has been deemed by the Examiner to contain patentable subject matter. Claim 36 includes similar recitations already included in claim 17 and claim 21, with the exception that claim 36 does not include all the intervening base claims of claim 21. As with claim 16, claim 21 is objected to but has been deemed by the Examiner to contain patentable subject matter. For the arguments above, Applicants contend that claims 35 and 36 are in condition for allowance.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

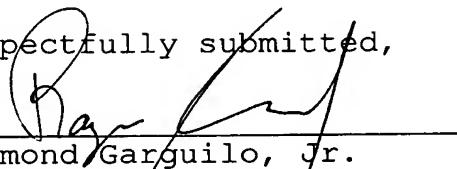
If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicants' attorney at (908) 654-500 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: January 3, 2005

Respectfully submitted,

By


Raymond Garguilo, Jr.

Registration No.: 50,930
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

LD-446\

531409_1.DOC